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**From:**

**Sent:** Monday, May 24, 2010 10:28:35 AM

**To:**

**Cc:**

**Subject:** RE: Voluntary Disclosure

No, we actually get more. The nonduplication rule acts as a penalty for the taxpayer's failure to comply with section 3121(v)(2). If they had complied and paid FICA as they should have upon deferral, then they only pay FICA on the amounts deferred, and they pay it prior to retirement at a time when the employees have other wages to get them over the FICA wage base so that they would probably only be paying Medicare. If they pay FICA on distribution, then they pay FICA not only on the amounts deferred, but on all income attributable to the amounts deferred. Also, they will probably pay full FICA (OASDI and Medicare) because the employees will be retired and won't have other wages to get them over the FICA wage base.